

**Logan, Maura M.**

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**From:** Diulio, Kristopher P.  
**Sent:** Tuesday, March 08, 2011 10:41 AM  
**To:** Timothy Matusheski; jketcham@psrb.com; femhardt@psrb.com; Brianna Schroeder  
**Cc:** Hatch, Timothy J.  
**Subject:** 2011.03.08 Diulio email to counsel re March 7, 2011 Correspondence

Counsel:

In addition to the *Graves* and *Olson* cases, in which ITT was a defendant, the court in *Schultz* included in its order dismissing that action a list of the other complaints against education institutions, each of which was a prior public disclosure. See 2009 U.S. Dist. LEXIS 17015, at \*7. The *Lopez* court also listed in its order the numerous previously-filed "false certification" cases. See 2010 U.S. Dist. LEXIS 25576, at \*25 n.9. Relator's counsel was involved in both *Schultz* and *Lopez*, and thus should be well aware of the prior public disclosures. Although the disclosures are publicly available, ITT has produced many of them. See ITT\_LEV 0086013 - ITT-LEV 0086621. Ms. Leveski has also produced public disclosures of the allegations and transactions contained in her SAC. See LEV000345 LEV000347, LEV000709 - LEV001308.

Because ITT is incurring substantial fees and expenses on a daily basis, ITT's willingness to forego seeking fees and expenses is contingent on Ms. Leveski's prompt agreement to voluntarily dismiss this action.

Regarding Blain Butner, he is an attorney who represents ITT in a variety of matters. Mr. Butner must be contacted through ITT's counsel in this litigation to ensure that there is no inadvertent waiver of ITT's privilege.

Best,

Kristopher

**Kristopher P. Diulio**

**GIBSON DUNN**

Gibson, Dunn & Crutcher LLP  
3161 Michelson Drive, Irvine, CA 92612-4412  
Tel +1 949.451.3907 • Fax +1 949.475.4630  
KDiulio@gibsondunn.com • www.gibsondunn.com

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**From:** Timothy Matusheski [mailto:timmatusheski@hotmail.com]  
**Sent:** Monday, March 07, 2011 9:12 PM  
**To:** Diulio, Kristopher P.; jketcham@psrb.com; femhardt@psrb.com; Brianna Schroeder  
**Cc:** Hatch, Timothy J.  
**Subject:** RE: Leveski/ITT -- March 7, 2011 Correspondence

Kris:

We will discuss the issue raised in your letter. In order to do so, we request that you supplement your discovery responses to identify those documents that you claim are considered a public disclosure of the allegations and transactions contained in Leveski's SAC.

Of the over 4,500 institutions of higher learning that executed a PPA and are eligible to receive Title IV subsidies, please supplement your discovery responses and furnish us with a copy of each document "reflecting complaints filed against other educational institutions under the False Claims Act concerning the incentive compensation ban."

As to Blaine Butner Dow Lohnes PLLC, please advise as to why you contend we must contact these attorneys through your office.

Thanks.

Timothy J. Matusheski  
[www.Mississippiwhistleblower.com](http://www.Mississippiwhistleblower.com)

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Subject: Leveski/ITT -- March 7, 2011 Correspondence  
Date: Mon, 7 Mar 2011 16:35:27 -0800  
From: [KDiulio@gibsondunn.com](mailto:KDiulio@gibsondunn.com)  
To: [jketcham@psrb.com](mailto:jketcham@psrb.com); [femhardt@psrb.com](mailto:femhardt@psrb.com); [bschroeder@psrb.com](mailto:bschroeder@psrb.com); [timmatusheski@hotmail.com](mailto:timmatusheski@hotmail.com)  
CC: [THatch@gibsondunn.com](mailto:THatch@gibsondunn.com)

Counsel:  
Please review the attached correspondence.  
Best,  
Kristopher  
<<2011.03.07 Ketcham letter.pdf>>  
**Kristopher P. Diulio**

## GIBSON DUNN

Gibson, Dunn & Crutcher LLP  
3161 Michelson Drive, Irvine, CA 92612-4412  
Tel +1 949.451.3907 • Fax +1 949.475.4630  
[KDiulio@gibsondunn.com](mailto:KDiulio@gibsondunn.com) • [www.gibsondunn.com](http://www.gibsondunn.com)

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then immediately delete this message.

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